

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SUZETTE PUENTE, an individual, and
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY, as subrogee of
Suzette Puente,

Plaintiffs,

V.

UNITED STATES OF AMERICA,

Defendant.

Case No. C18-825 RSM

ORDER GRANTING DEFENDANT'S
RULE 12(c) MOTION TO DISMISS
PLAINTIFF PUENTE'S CLAIMS

This matter comes before the Court on a Rule 12(c) Motion to Dismiss filed by Defendant United States of America. Dkt. #20. This Motion is directed at the claims of Plaintiff Suzette Puente and not the claims of Defendant State Farm. No party has opposed this Motion. In accordance with Local Rule 7(b)(2), the Court considers Plaintiffs' failure to file an opposition to this Motion "as an admission that the motion has merit."

The Court finds Ms. Puente's claims are properly dismissed as untimely under the Federal Tort Claims Act ("FTCA"). Accepting the factual allegations in the Amended Complaint as true, there is no issue of material fact in dispute with respect to the timing of the filing of Ms. Puente's claims. In November 2016, Ms. Puente submitted an Administrative Claim to EPA, which claim EPA denied on or about February 14, 2017. Dkt. #7 at 2. On June

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1 15, 2017, Puente submitted an Amended Administrative Claim, which claim EPA denied on or
2 about March 23, 2018. *Id.* This lawsuit was filed on June 7, 2018. Dkt. #1. Plaintiffs did not
3 file this lawsuit within six months from the agency's final denial of Ms. Puente's administrative
4 claim. Ms. Puente's filing of an amended administrative claim after the EPA's final denial of
5 the original administrative claim does not restart the six-month deadline. *See Redlin v. United*
6 *States*, 921 F.3d 1133 (9th Cir. 2019).

8 Having reviewed the relevant briefing and the record, the Court hereby finds and
9 ORDERS that Defendant United States of America's Motion to Dismiss, Dkt. #20, is
10 GRANTED. Plaintiff Suzette Puente's claims against the United States are dismissed with
11 prejudice. Plaintiff State Farm's claims are not addressed by this Order. The Court is directed
12 to send a copy of this Order to:

14 Suzette Puente
15 15914 44th Ave. W, Apt. M308
16 Lynnwood, WA 98087-6165

17 DATED this 1st day of August 2019.

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22 RICARDO S. MARTINEZ
23 CHIEF UNITED STATES DISTRICT JUDGE
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